

**County of Santa Clara Communications Department
9-1-1 Audio Recording System**

Annual Surveillance Report Period: July 1, 2022 – June 30, 2023

1. DESCRIPTION OF HOW SURVEILLANCE TECHNOLOGY WAS USED

The Communications Department uses a 9-1-1 Audio Recording System to record all 9-1-1 emergency and non-emergency telephone calls and radio transmissions handled by Santa Clara County communications dispatchers. The recordings accurately preserve full details of calls needed to assess situations to determine the type of emergency and the appropriate response. The system also captures all radio communications during the emergency event response.

During the annual report period from July 1, 2022 to June 30, 2023, the 9-1-1 audio recording system was used to accurately record all telephone and radio audio communications related to public safety emergency events and other incidents handled by communications dispatchers. On duty dispatchers reviewed audio recordings as needed at their assigned dispatch console positions to verify information needed to dispatch emergency response. Dispatch supervisory and management staff used the system to review recorded audio for training, performance assessment, investigations, and quality assurance purposes. Recordings captured information regarding members of the public who were not suspected of engaging in unlawful conduct.

Dispatch supervisory staff conducted periodic audits of recordings to confirm compliance with the surveillance technology use process and policy. Access to audio-recorded information is strictly limited to individuals identified in the revised surveillance technology use policy approved by the Board of Supervisors on January 25, 2022, and is tracked by user login profiles. The Communications department confirms that none of the recorded information was used for any purpose prohibited by the surveillance use policy, and access to recorded audio is restricted to authorized personnel and tracked by access logs in the 9-1-1 Audio Recording System. The tracking records are audited to ensure the individuals using the technology and the use of the technology comply with the surveillance use policy. Collected audio recordings have been subject to a two-year retention period in compliance with the policy retention period.

2. DATA SHARING WITH OUTSIDE ENTITIES

During the period from July 1, 2022 to June 30, 2023, the department received a total of 1535 requests for 9-1-1 audio records. The majority of the requests were from County justice/law enforcement departments. There were 37 instances when data was shared with outside entities: 22 requests from non-County public safety entities: 13 California Public Records Act (CPRA)

requests from non-public safety agencies, law firms, and private citizens, and two requests through subpoenas.

The following law enforcement agencies requested 9-1-1 recordings in connection to specific administrative, civil, or criminal investigations. The legal standard for disclosure of information to law enforcement agencies is California Evidence Code § 1040 for the investigatory privilege.

- Gilroy Police Department: two requests for radio recordings in connection with a criminal investigation.
- Santa Clara Police Department: two requests for radio recordings in connection with equipment failure and a criminal investigation.
- West Valley–Mission Community College District Police Department: four requests for one radio and three radio and telephone recordings in connection with criminal investigations and training.
- Campbell Police Department: one request for a radio recording in connection with equipment failure.
- Santa Cruz County District Attorney’s Office: one request for a telephone recording in connection with a criminal investigation.

Other requests from partner agencies:

- Santa Clara County Fire Department: 22 requests, eight for radio, 14 for radio and telephone recordings in connection with fire investigations and internal reviews.

The following CPRA request releases were in accordance with the CPRA Recodification Act of 2021, Govt. Code Section 7920.000 et seq., the legal standards for disclosure of information to requesting parties:

- California Department of Consumer Affairs: one request for radio and telephone recordings.
- Sacramento County, Social Services Department: one request for a telephone recording.
- California Department of Social Services: two requests for telephone recordings.
- Dormer Harpring, LLC: one request for a telephone recording.
- Private Citizens: two requests for telephone recordings.

- Gillin, Jacobson, Ellis, Larsen & Lucey Accident Attorneys: one request for radio and telephone recordings.
- Harris Personal Injury Lawyers, Inc.: one request for radio and telephone recordings.
- Dudensing Law: one request for a telephone recording.
- Rehon & Roberts APC: two requests for telephone recordings.
- Schaar & Silva LLP: one request for a telephone recording.

Subpoenaed:

- Mark Millen, Attorney: one request for a telephone recording in connection with a Superior Court of the State of California case number 21CV388483.
- Tholts Law Firm: one request for a telephone recording in connection with Superior Court of the State of California case number 21-CIV-02888.

In addition to sharing audio recording data in response to requests related to CPRA, subpoenas, and investigations, Medical Priority Consultants, Inc. dba Priority Dispatch Corporation (PDC) reviewed telephone recordings per contracted services to perform quality assurance evaluation of emergency law enforcement calls handled by County Communications dispatchers. PDC reviews approximately 230 recordings each month using the department's secure software via the county controlled Enexity SecureLink access.

The department keeps track of all record requests and documents disposition of recorded data, including data shared with outside entities.

3. COMMUNITY COMPLAINTS OR CONCERNS

The Communications Department did not receive any community complaints or concerns regarding the use of the recording system.

All community complaints regarding the surveillance technology are routed to the Department Director and tracked by department administration in compliance with the surveillance use policy.

4. AUDITS / POLICY VIOLATIONS

The Communications Director, Deputy Director, and their designees oversee the 9-1-1 Audio Logger System to ensure compliance with the policy. Written designees were identified

following the surveillance technology use policy. All newly hired probationary employees are provided with a copy of the approved surveillance technology use policy as part of their onboarding. All permanent employees were provided a policy copy via the Department's online training and tracking platform.

Audio recordings of 9-1-1 radio and telephone communications were retained pursuant to Government Code sections 26202 and 26205 for this annual reporting period. The record retention period for radio and telephone records is two years unless subject to a litigation hold or related to a California Public Records Act (CPRA) request.

During the period covered by this Annual Report, periodic internal reviews were conducted by Supervisors to monitor performance and to investigate complaints when necessary. There were no allegations of policy violations related to the 9-1-1 Audio Recording System.

5. EFFECTIVENESS IN ACHIEVING IDENTIFIED PURPOSE FOR SURVEILLANCE TECHNOLOGY

The 9-1-1 Audio Recording system at the Communications Department has continued to effectively record 24 hours a day, seven days a week, all 9-1-1 emergency calls, non-emergency calls, and radio traffic related to services provided by the Department's Dispatch Operations. The audio recording system benefited law enforcement agencies by making the records available for criminal investigations or other administrative and/or personnel-related matters. The department also benefitted by using the recordings to train new dispatchers, assist with performance assessments, meet standards for accreditation, and provide information for other investigative-related matters to ensure the safety of the public and public safety personnel.

6. PUBLIC RECORDS ACT REQUESTS

During this annual report period, there were 13 CPRA requests for 9-1-1 audio records received from private attorneys, private citizens, and outside government entities, as detailed above in Section 2.

The department administration tracks and records all public records requests in compliance with the surveillance use policy.

7. ANNUAL COST

The total cost of the surveillance technology during this Annual Reporting period was \$203,996, including \$144,420 for annual maintenance and \$59,576 for personnel costs. The funding for the surveillance technology annual ongoing cost for the coming year will be part of the Department's General Fund operating budget.